

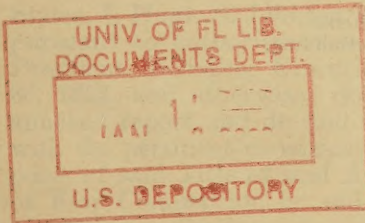
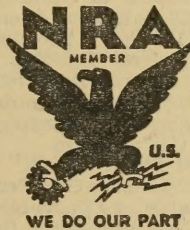
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

**INDUSTRY OF WHOLESALING
PLUMBING PRODUCTS, HEATING
PRODUCTS, AND/OR DISTRIBUTING
PIPE, FITTINGS, AND VALVES**

AS APPROVED ON AUGUST 25, 1934



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Approved Code No. 508

CODE OF FAIR COMPETITION

FOR THE

INDUSTRY OF WHOLESALING PLUMBING PRODUCTS, HEATING PRODUCTS AND/OR DISTRIBUTING PIPE, FITTINGS AND VALVES

As Approved on August 25, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE INDUSTRY OF WHOLESALING PLUMBING PRODUCTS, HEATING PRODUCTS AND/OR DISTRIBUTING PIPE, FITTINGS AND VALVES

An application having been duly made pursuant to and in full compliance with the provisions of the Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Industry of Wholesaling Plumbing Products, Heating Products and/or Distributing Pipe, Fittings and Valves, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and do hereby order that said Code of Fair Competition be and it is hereby approved; provided that exemption to the provisions of this Code be and is hereby granted to those members of the Wholesale Hardware Trade who are complying with the provisions of the Code of Fair Competition for the Wholesaling and Distributing Trade and the Supplemental Code of Fair Competition for the Wholesale Hardware Trade pending my further order; and provided further, that the provisions of Article VIII, insofar as they prescribe as waiting period of ten days between the filing with the Code Authority (or such agency as may be designated in the Code) and the effective date of price lists as originally

filed and/or revised price lists or revised terms and conditions of sale, be and they hereby are stayed pending my further order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

BARTON W. MURRAY,
Division Administrator.

WASHINGTON, D.C.,
August 25, 1934.

REPORT TO THE PRESIDENT

THE PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Industry of Wholesaling Plumbing Products, Heating Products, and/or Distributing Pipe, Fittings and Valves, a public hearing having been conducted thereon in Washington, D.C., October 3, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

GENERAL STATEMENT

The proponents of the Code show representation for 1,011 firms in ten (10) regional associations out of approximately 1,350 firms in the Industry. In 1932 the volume of business amounted to approximately \$324,000,000 of which the sponsoring members handled about \$259,000,000, or 83 percent of the volume of sales.

HOURS AND WAGES

The Code for this Industry provides for a maximum work week of forty (40) hours with a limitation of eight (8) hours per day and six (6) days in each seven (7) day period. Exceptions are allowed in the cases of executives, and to persons in a managerial capacity who regularly receive not less than thirty-five (35) dollars per week and to outside Salesmen. Employees engaged as Watchmen may be permitted to work fifty-six (56) hours per week. The minimum rates of pay per week of forty (40) hours shall be in the North not less than \$15.00 per week in cities over 500,000 population, \$14.50 per week in Cities of 250,000 to 500,000 and \$14.00 per week in any other place. In the South the rates shall be \$1.00 per week lower than the minimum rates set for the North.

ECONOMIC EFFECT OF THE CODE

Prior to June 16, 1933, this industry worked on an average of fifty-five (55) hours per week. The adoption of a forty (40) hour standard work week in this industry represents a reduction in weekly hours of thirty-four (34) percent of the man hours in this industry. This reduction in basic hours will provide re-employment for 6,375 workers or about sixty-one (61) percent of the unemployed workers in this industry. The minimum rates of wages established in the Code represent the same weekly pay envelopes for employees for a forty (40) hour week as they formerly received for a fifty-five (55) hour week in 1933.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of inter-state and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practice, by promoting the fullest possible utilization of the present production capacity of Industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid Industry; and that said group imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, this Code of Fair Competition for the Industry of Wholesaling Plumbing Products, Heating Products, and/or Distributing Pipe, Fittings and Valves has been approved.

HUGH S. JOHNSON,
Administrator.

AUGUST 25, 1934.

CODE OF FAIR COMPETITION FOR THE INDUSTRY OF WHOLESALE PLUMBING PRODUCTS, HEATING PRODUCTS AND/OR DISTRIBUTING PIPE, FITTINGS AND VALVES

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Industry of Wholesaling Plumbing Products, Heating Products and/or Distributing Pipe, Fittings and Valves, and shall be the standard of fair competition for such Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Industry of Wholesaling Plumbing Products, Heating Products and/or Distributing Pipe, Fittings and Valves" or "Industry", as used herein, includes the performance of wholesale functions, such as assembling, warehousing and buying from manufacturers the products defined in Sections 2 and 3 hereof, and the selling, transferring or distributing of such products, either directly or indirectly, to retailers, institutional, commercial and/or industrial users, or to retail divisions, branches or stores for resale and/or the selling and distributing of pipe, fittings and valves, as defined in Section 4 hereof, but not including sales of pipe, fittings and valves by Manufacturers.

SECTION 2. The term "Plumbing Products", as used herein, includes Bath tubs, Lavatories, Sinks, Water Closets, Urinals, Showers, Drinking Fountains, and all other plumbing fixtures with accessory and complementary products.

SECTION 3. The term "Heating Products", as used herein, includes Heating Boilers, Radiators, with accessory and complementary products.

SECTION 4. The term "Pipe", "Fittings and Valves", as used herein, includes Steel, Wrought Iron, Copper, Brass and other metal pipes with fittings and valves of like materials for the conveyance and control of water, steam, gas, air and other liquids, but does not include oil well tubular pipe.

SECTION 5. The term "Member of the Industry", as used herein, includes any individual, partnership, corporation, or other form of enterprise engaged in the Industry, either as an employer or on his or its own behalf.

SECTION 6. The term "Employee", as used herein, includes any and all persons engaged in the Industry, however compensated, except a Member of the Industry.

SECTION 7. The terms "President", "Act" and "Administrator", as used herein, mean respectively the President of the United States,

Title I of the National Industrial Recovery Act and the Administrator for Industrial Recovery.

SECTION 8. The term "Joint National Committee", as used herein, includes the thirty (30) representatives of the Associations presenting this Code and the individual members thereof, or as such Committee may be augmented by the inclusion of representatives of other Associations and/or members of this Industry.

SECTION 9. The term "Wholesaler", as used herein, includes any Member of the Industry who performs wholesale functions such as assembling, warehousing and buying from manufacturers, Plumbing and/or Heating Products as defined in Article II, Sections 2 and 3, and who maintains at his or its place of business a stock of such products in such variety and volume as to meet the installation requirements, in conformity with the building codes and health regulations of the trading areas in which he or it operates and whose major sales are to Plumbing and Heating Contractors or to Institutional, Commercial and Industrial Users.

SECTION 10. The term "Jobber" and/or "Distributor", as used herein, includes any Member of the Industry who buys pipe, fittings and valves from manufacturers thereof for resale and who maintains a stock of such products in sufficient quantity and variety to render normal service.

SECTION 11. The term "Wholesaler-Retailer", as used herein, includes any Member of the Industry who performs wholesale functions such as assembling, warehousing and buying from manufacturers of Plumbing Products and/or Heating Products, and who assigns or sells such products to retail divisions, branches or stores which thereafter make their major sales to the ultimate consumer.

SECTION 12. The term "Plumbing Contractor" or "Master Plumber", as used herein, is defined as: Any individual who has passed a satisfactory examination, where required by law, covering his technical training and experience in the engineering and manual aspects of his trade, has a license where required, in conformity with the requirements of the area in which he operates, or, in areas where no license is required, is capable of making a satisfactory installation under either the "United States Bureau of Standards' Recommended Minimum Requirements for Plumbing as revised to May, 1931", or the "Plumbing Code" approved by the National Association of Master Plumbers of the United States, Inc., in convention June, 1933, or a firm, corporation or other entity organized for the purpose of selling and installing plumbing products, any member, officer, or regular employee of which is qualified as above provided.

SECTION 13. The term "Heating Contractor", as used herein, is defined as: Any individual, firm or corporation or other form of enterprise which conducts a business as such and who holds itself or himself out as qualified by training and experience to install heating, piping and/or air conditioning equipment, either in connection with the sale of such equipment or independently thereof.

SECTION 14. The term "Institutional, Commercial and/or Industrial Users" of Plumbing Products, as used herein, is defined as: The United States Government and the agencies thereof, State Governments and their political subdivisions, railroads, shipbuilders,

ship repair yards, and steamship companies or anyone who purchases Plumbing Products, on a wholesale quantity basis and who employs regularly on full time, a properly qualified Master Plumber, as defined in Section 12 of this Article.

SECTION 15. (a) The term "Institutional, Commercial and/or Industrial Users" of Heating Products, as used herein, is defined as: The United States Government and the agencies thereof, State Governments, and their political subdivisions, railroads, shipbuilders, ship repair yards, and steamship companies or anyone who purchases heating products on a wholesale quantity basis.

(b) Other classes of purchasers of Heating Products may be so classified by the Code Authority, subject to approval by the Administrator.

SECTION 16. The term "Consumer", as used herein, is defined as one who purchases plumbing and/or heating products for its or his own use and not for the purpose of resale, except institutional, commercial and/or industrial users, as defined in Sections 14 and 15.

SECTION 17. The term "Manufacturer", as used herein, includes anyone engaged in the manufacture of the products of the Industry.

ARTICLE III—HOURS

SECTION 1. No employee except as hereinafter provided, shall be permitted to work more than eight (8) hours in any one day or more than forty (40) hours in any one week.

SECTION 2. No Watchman shall be permitted to work in excess of fifty-six (56) hours in any one week nor more than six (6) days in any one week.

SECTION 3. The provisions of this Article shall not apply to persons in a managerial or executive capacity who regularly receive a salary or guaranteed minimum of \$35.00 per week or more, or to outside salesmen.

SECTION 4. In case of necessity any employee may be permitted to work in excess of his maximum daily and/or weekly hours as specified in Section 1 of this Article provided that one and one-third ($1\frac{1}{3}$) times his normal rate per hour shall be paid for each hour worked in excess of said maximum daily and/or weekly hours. In no case, however, shall any employee be permitted to work more than eight (8) hours per week in excess of his maximum weekly hours as specified in Section 1 of this Article, provided, however, that this exception shall be limited to not more than twelve (12) weeks in any year.

SECTION 5. Each Employer shall, as far as practicable, so administer work in his charge as to provide the maximum continuity of employment for his personnel.

SECTION 6. No employer shall knowingly permit any employee to work for any time which, when added to the time spent at work for another employer or employers exceeds the maximum permitted herein.

SECTION 7. No employee shall be permitted to work more than six (6) days in any seven (7) day period.

ARTICLE IV—WAGES

SECTION 1. The minimum rates of pay per week of forty (40) hours shall be as follows in cities or the population listed below and their immediate trade areas:

- (a) Over 500,000 population—not less than \$15.00 per week.
- (b) 250,000 to 500,000 population—not less than \$14.50 per week.
- (c) Less than 250,000 population—not less than \$14.00 per week.
- (d) In the South at the rate of \$1.00 per week less than the rates specified above in Paragraphs (a), (b), and (c). Population for the purposes of this Code shall be determined by reference to the 1930 Census of the United States. The South shall include the states of Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, South Carolina, Virginia, Texas, Tennessee and West Virginia.

SECTION 2. No part-time employee, and no employee paid on an hourly basis shall be paid less than 40¢ per hour. Any employee who works less than the regular full time weekly hours of labor established by his employer shall be considered a part-time employee.

SECTION 3. (a) Employees with less than three (3) months' experience in the trade may be paid at the rate of \$1.00 less than the minimum rates prescribed in Section 1 of this Article IV.

(b) Office boys, delivery boys and messengers between the ages of sixteen (16) and eighteen (18) years inclusive, may be paid at the rate of \$2.00 less per week than the minimum rate prescribed, in Section 1 of this Article.

(c) Junior employees between the ages of sixteen (16) and eighteen (18) years, and not included in the categories specified in paragraph (b) of this section 3, shall be governed by the provisions of paragraph (a) of this Section 3.

(d) The total number of learners and junior employees as defined in paragraphs (a), (b) and (c) of this section shall not exceed in number more than 5% of the total number of employees of such employer, provided that each employer may employ at least one (1) learner or junior employee.

SECTION 4. The hourly wage rate or salary of all Employees receiving more than the minimum rate or salary herein prescribed shall be equitably adjusted, if such adjustments have not already been made. No employee now receiving compensation at a rate in excess of the minimum herein prescribed shall have his weekly compensation reduced on account of any reduction in weekly hours of employment to conform to requirements of Article III.

SECTION 5. Each employer shall make payment of all wages due not otherwise than in lawful currency or by negotiable check therefor, payable on demand. These wages shall be exempt from any payments for pensions, insurance or sick benefits, or any other deductions by the employer, other than those voluntarily paid by the wage earner, or required by law. Wages shall be paid at least semi-monthly, and salaries shall be paid at least monthly. No employer shall accept any rebate directly or indirectly on such wages or salaries.

SECTION 6. A person whose earning capacity is limited because of age or physical or mental handicap may be employed in light work

at a wage below the minimum established by this Code if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons.

Each employer shall file monthly with the Code Authority a list of all such persons employed by him showing the wages paid to, and the maximum hours of work for such employee.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the Industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within 30 days after the effective date of this Code a list of such operations or occupations. In any State an Employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or age certificates or permits showing that the Employee is one of the required age.

SECTION 2. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference, restraint or coercion of Employers of labor or their agents in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required, as a condition of employment, to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SECTION 3. Every Member of the Industry shall comply with all rules and regulations relative to the posting of provisions of this Code which may from time to time be prescribed by the Administrator.

SECTION 4. Employers shall not reclassify Employees or duties or occupations performed by Employees or engage in any other subterfuge so as to defeat the purpose of the Act or the provisions of this Code.

SECTION 5. Every Employer shall provide for the safety and health of his Employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six (6) months after the effective date of this Code.

SECTION 6. No employee shall be dismissed or demoted by reason of making a complaint or giving evidence with respect to an alleged violation of this Code.

SECTION 7. No provisions in this Code shall supersede any law within any State which imposes more stringent requirements on Employers as to age of Employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SECTION 8. There may be established by the Administrator an Industrial Relations Board for the Industry consisting of an equal number of representatives of employers and employees to deal with all matters in the Code relating to labor. Where a majority agreement cannot be reached, the Board shall elect an impartial chairman to render a decision. If no truly representative labor organization exists, the employee members of such Board shall be chosen by the Labor Advisory Board of the National Recovery Administration. The employer representatives shall be chosen by the Code Authority. The Industrial Relations Board may establish such subsidiary agencies constituted in like manner as it finds necessary.

ARTICLE VI—ADMINISTRATION

ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

SECTION 1. A Code Authority is hereby constituted to administer this Code and shall consist of thirteen (13) members, which number may be enlarged or decreased with the approval of the Administrator, to be elected as hereinafter provided and in addition thereto there may be three (3) members, without vote, to be known as Administrative Members, to be appointed by the Administrator to serve for such terms as he may specify.

SECTION 2. (a) Until the election of the Code Authority, as hereinafter provided, there shall be a temporary Code Authority, consisting of ten (10) members, who shall be elected by the Joint National Committee within ten (10) days after the effective date of this Code and in addition thereto there may be appointed by the Administrator four (4) members who shall be Members of the Industry and who shall not be members of any association represented on the Joint National Committee, provided however that two (2) of such appointed members shall be Wholesaler-Retailers and (1) shall be a Jobber and/or Distributor and one (1) shall be a Wholesaler, and there may be appointed thereto the Administrative Members as provided for the Code Authority in Section 1.

(b) Within sixty (60) days after the effective date of this Code, the Code Authority shall be elected by the Members of the Industry at an election conducted pursuant to a plan to be submitted by the temporary Code Authority to the Administrator for his approval. The plan and method of this election shall be submitted to the Administrator by the temporary Code authority within thirty (30) days after the approval of this Code. Such plan shall provide for equitable representation of Wholesalers, Wholesaler-Retailers, and Jobbers and/or Distributors.

SECTION 3. The Code Authority, subject to the approval of the Administrator, shall have power to divide and, if necessary, to subdivide, the United States into such zones, districts and/or local areas as, in its judgment, will best facilitate the administration of this Code and, further, shall have power to establish and appoint subordi-

nate Regional Code Committees for each zone, district or local area and to delegate to such subordinate Regional Code Committees any of the powers, duties, and/or functions reposed in the Code Authority by this Code. Such Regional Code Committees shall render their minutes and reports of each of their activities to the Code Authority for its review and any action of a Regional Code Committee shall be subject to the approval of the Code Authority. All records and minutes submitted by such Regional Code Committee shall become a part of the permanent records of the Code Authority. Each Regional Code Committee may establish uniform credit terms, subject to the approval of the Code Authority and the Administrator.

SECTION 4. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter, if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

SECTION 5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful malfeasance or non-feasance.

SECTION 6. Subject to such rules and regulations as may be issued by the Administrator, the Code Authority shall have the following powers and duties in addition to those authorized by other provisions of this Code:

(a) To insure the execution of the provisions of this Code and to provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from Members of the Industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, Members of the Industry subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and State agencies as he may designate; provided that nothing in this Code shall relieve any Member of the Industry of any existing obligations to furnish reports to any Government agency. No individual report shall be disclosed to any other Member of the Industry or any other party except to such other Governmental agencies as may be directed by the Administrator. Nothing herein shall be construed to prohibit the publication of general summaries compiled from such reports.

(d) To use such trade associations and other agencies including the Regional Code Committees as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or respon-

sibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To make recommendations to the Administrator for the coordination of the administration of this Code with such other Codes, if any, as may be related to or affect Members of the Industry.

(f) It being found necessary to support the Administration of this Code and to maintain the standards of fair competition established hereunder, and to effectuate the policy of the Act, the Code Authority is authorized:

(1) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code:

(2) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary; (a) an itemized budget of its estimated expenses for the foregoing purposes, and (b) an equitable basis upon which the funds necessary to support such budget shall be contributed by Members of the Industry.

(3) After such budget and basis of contribution have been approved by the Administrator, to determine and obtain equitable contributions as above set forth by all Members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

(4) (a) Each member of the Industry shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Administrator. Only members of the Industry complying with the Code and contributing to the expenses of its administration as hereinabove provided (unless duly exempted from making such contribution), shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(4) (b) The Code Authority shall neither incur nor pay any obligation in excess of the amount thereof as estimated in its approved budget, except upon approval of the Administrator first obtained; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

(g) To recommend to the Administrator any action or measures deemed advisable, including further fair trade practice provisions to govern Members of the Industry in their relations with each other or with other industries, measures for industrial planning, and stabilization of employment; and including modifications of this Code which shall become effective as part hereof upon approval by the Administrator after such notice and hearing as he may specify.

(h) To appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Industry for the purpose of formulating fair trade practices to govern the relationships between em-

ployers under this Code and under such other codes to the end that such fair trade practices may be proposed to the Administrator as amendments to this Code and such other codes.

(i) To provide appropriate facilities for arbitration, and subject to the approval of the Administrator, to prescribe rules of procedure and rules to effect compliance with awards and determinations.

SECTION 7. If the Administrator shall determine that any action of the Code Authority or of any Regional Code Committee or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by the Code Authority or agency pending final action, which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 8. *Employment Reports.*—(a) Each Employer in this Industry shall furnish, to a Confidential agent of the Code Authority, when required by the Code Authority, on forms to be furnished by said Code Authority, a sworn report of the number of persons employed, wage rates in effect, and hours worked in his plant or plants, classified by occupations, together with such other sworn employment reports as the Code Authority may require from time to time.

(b) Individual reports shall not be available to anyone except the Administrator and the representatives of the Code Authority (who shall not be in the employ of any Member of this Industry); provided, however, that in the event of a complaint, the Code Authority may require all information pertinent to such complaint. Total figures compiled from such reports shall be available to Members of the Industry.

ARTICLE VII—TRADE PRACTICES

The following practices constitute unfair methods of competition for Members of the Industry and are prohibited:

SECTION 1 (Discrimination).—Discriminating in prices, terms, discounts, allowances, guarantees, or in any other way, between purchasers of the same class, who purchase in like quantity.

SECTION 2 (Split Shipments).—Except for a specific building operation, delivering only portions of orders taken at a quantity price with the intent, or having the effect of violating published prices.

SECTION 3 (Delivery Charges).—Where the published price provides for an extra charge for parcelpost, cartage, or other transportation, failing to make such charge.

SECTION 4 (Rebates).—Paying or allowing rebates, refunds, commissions, credits, unearned discounts, whether in the form of money or otherwise, or extending to certain purchasers special prices, services, or privileges not extended to all purchasers of the same class on like terms and conditions.

SECTION 5 (Fictitious Dating or Invoicing).—Post-dating or pre-dating of quotations, orders, invoices, statements or other sales

documents; making fictitious quotations or invoices, or the entering of fictitious orders.

SECTION 6 (Inducing Breach of Contract).—Inducing or attempting to induce the breach of a contract between a competitor and his customer during the terms of such contract; provided, however, that nothing in this rule shall prevent a Member of the Industry who has quoted on the material involved from calling to the attention of the purchaser, even though the order has been placed and accepted, that the list of materials for which the order has been placed does not conform in size, quantity or quality to the materials on which the quotations were solicited.

SECTION 7 (Repudiation of Contracts).—Repudiating or attempting to cancel accepted orders, except for legal cause or by mutual consent for the purpose or with the effect of avoiding the provisions of Article VIII, Section 2.

SECTION 8 (Lump Sum Bidding).—Quoting a total price on any schedule of plumbing products, heating products and/or pipe, fittings and valves, which does not show unit prices, or adding to or deducting from any such schedule on any other basis than the unit price shown. This shall not be construed to prohibit quantity discounts applying to units.

SECTION 9 (False Marking or Branding).—The false marking or branding of any products of the Industry which has the tendency to mislead or deceive customers or prospective customers; whether as to nature, origin, size, finish, grade, quality, quantity, substance, character or preparation of any product of the Industry, or otherwise.

SECTION 10 (Misrepresentation or False or Misleading Advertising).—Making, causing or knowingly permitting to be made or published, any false, materially inaccurate or deceptive statement by way of advertisement or otherwise, whether concerning grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry or credit terms, values, policies, or services of any Member of the Industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

SECTION 11 (Substitution.) Furnishing without the consent of the purchaser articles of more or less expense, of better or inferior quality, or of larger or smaller size than specified and without making the proper adjustment in the quoted price and clearly indicating the nature of the substitution.

SECTION 12 (Defamation).—Defaming competitors, customers or prospective customers by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

SECTION 13 (Commercial Bribery).—Giving, permitting to give, or directly offering to give anything of value, for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee the principal of such agent or the represented party, without the knowledge of such employer, principal or party.

This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

SECTION 14 (Protection).—Selling or offering to sell products of the Industry under any form of guaranty to a purchaser or prospective purchaser against either advance or decline in the price of said products, except for a specific project, or when a contract of sale for future delivery is made for a definite quantity of such products, at a definite delivery date.

SECTION 15 (Threats of Litigation).—Publishing or circulating threats of suits for infringement of patents or trade marks, or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

SECTION 16 (Espionage of Competitors).—Securing confidential information concerning the business of a competitor by a false or misleading statement or representation by a false impersonation of one in authority, by bribery, or by any other unfair method.

SECTION 17 (Sales at Wholesale Price).—Selling, or offering to sell, plumbing products or heating products at Wholesale Prices to other than Plumbing Contractors, Heating Contractors, Retail Divisions, Branches or Stores; or Institutional, Commercial and/or Industrial users as hereinbefore defined.

SECTION 18 (Quotations).—Allowing a quotation for a specific building operation which provides for the acceptance within a specified time to remain in effect after the time allowed for the acceptance has expired.

SECTION 19 (Plans, Specifications, Estimating).—Rendering engineering services (which shall not include estimating), without remuneration to cover the actual cost of such service; or estimating quantities, types, sizes, or quality of products of the Industry inaccurately with the intent and effect of misleading or deceiving customers or prospective customers.

SECTION 20 (Second Hand Material).—Selling used or damaged plumbing products, heating products, and/or pipe, fittings and valves in the same place of business where new products are sold without segregating such used and damaged products and clearly identifying same as such.

ARTICLE VIII—MARKETING POLICIES AND DISTRIBUTION ¹

SECTION 1 (Invoices).—All sales shall be invoiced at the time of shipment, and such invoices together with credit memoranda and all other documents relating to the sale shall clearly and accurately state all of the essential elements of the sale, including types and sizes of products, quantities, prices, credit terms, discounts, allowances, date of order, date of acceptance, date of shipment and other pertinent information. Copies of invoices together with credit memoranda and all other sales documents, shall be available to representatives of the Code Authority who shall not be in the employ of any Member of the Industry as and when directed by the Code Authority,

¹ See paragraph 2 of order approving this Code.

and in the event of a complaint true copies of invoices, credit memoranda and all other sales documents shall be sent immediately to the Code Authority upon its request.

SECTION 2 (*Published Prices*).—(a) Each Member of the Industry shall file with a confidential and disinterested agent of the Code Authority, identified lists of all of his prices, discounts, rebates, allowances and all other terms or conditions of sale or transfer, hereinafter in this Article referred to as “price terms”, which lists shall completely and accurately conform to and represent the individual pricing practices of said Member. Said price terms shall in the first instance be filed within thirty (30) days after the effective date of this Code. Price terms and revised price terms shall become effective ten (10) days after receipt thereof by said agent. Immediately upon receipt thereof said agent shall by telegraph or by other equally prompt means notify said Member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all Members of the Industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the Code Authority in preparation and distribution thereof and be available for inspection by any such customers at the office of such agent. Such lists shall contain the price terms for all Plumbing Products, Heating Products and Pipe, Fittings and Valves as are sold or offered for sale by said Member. Said lists or revisions or any part thereof shall not be made available to any person until released to all Members of the Industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid thirty (30) day period after the approval of this Code. The Code Authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the Administrator. Upon request the Code Authority shall furnish to the Administrator or any duly designated agent of the Administrator copies of any such lists of revisions of price terms.

(b) When any Member of the Industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

(c) No Member of the Industry shall sell or offer to sell any products of the Industry except in accordance with such filed price terms.

(d) No Member of the Industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any Member of the Industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create.

SECTION 3. The following practices specifically are violations of Section 2 of Article VIII:

(a) Publishing false or fictitious price lists.

(b) Issuing price bulletins to customers, salesmen, price clerks, or to branches, divisions, or affiliates of any Member of the Industry performing retail functions containing other than the prices cover-

ing such sales, transfers or deliveries, which shall have been published as price lists under the preceding section.

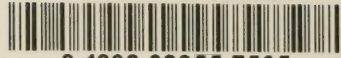
SECTION 4. Subject to the approval of the Code Authority and the disapproval of the Administrator, the Regional Code Committee of a trading area may classify certain products as obsolete. In such instances the published prices shall carry the notation and invoices for such products shall plainly show the following wording: "Special prices on account of close-out."

SECTION 5 (Cost Finding).—The Code Authority shall cause to be formulated methods of cost finding and accounting capable of use by all Members of the Industry, and shall submit such methods to the Administrator for review. If approved by the Administrator, full information concerning such methods shall be made available to all Members of the Industry. Thereafter, each Member of the Industry shall utilize such methods to the extent found practicable, but if any Member of the Industry fails to utilize such methods, such Member shall make a full disclosure to the Code Authority of the methods actually employed. If no method of cost finding or accounting is used by a Member of the Industry he shall so advise the Code Authority. Nothing herein contained shall be construed to permit the Code Authority, or any agent thereof, or any Member of the Industry to suggest uniform additions, percentages or differentials, or other uniform items of costs which are designed to bring about arbitrary uniformity of costs or prices.

SECTION 6. (Plumbing and Heating Products.)—Any Member of the Industry who is also a Member of any other Industry shall conduct his business in this Industry separately from his business in any other Industry by means of separate accounting therefor. It shall constitute unfair competition for any Member of this Industry, who is also a member of either the retail division of the Plumbing Industry or of the retail division of the Heating Industry, to sell, assign or transfer plumbing products and/or heating products from his business in this Industry to his business in the retail division of the Plumbing Industry or to his business in the retail division of the Heating Industry at prices other than as published in accordance with Section 2 of this Article.

SECTION 7 (Costs and Price Cutting).—The standards of fair competition for the Industry with reference to pricing practices are declared to be as follows:

(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the Industry or of any other industry or the customers of either may at any time complain to the Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling small enterprises or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within five (5) days afford an opportunity to the member filing the price to answer such complaint and shall within fourteen (14) days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of National Recovery Administration which shall render a report and recommendation thereon to the Administrator.



(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(c) When an emergency exists as to any given products, sale below the stated minimum price of such product, in violation of Section 8 hereof, is forbidden.

SECTION 8 (Emergency Provisions).—(a) If the Administrator, after investigation, shall at any time find both (1) that an emergency has arisen within the Industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the Industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may proceed to determine such stated minimum price.

(b) When the Administrator shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, he shall publish such price. Thereafter, during such stated period, no Member of the Industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the Administrator may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

ARTICLE IX—MODIFICATION

This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of sub-section (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval hereof.

ARTICLE X—MONOPOLIES

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XI—EFFECTIVE DATE

This Code shall become effective on the tenth day after its approval by the President.

Approved Code No. 508.
Registry No. 1129—3-12.